

BEFORE THE STATE BOARD OF EQUALIZATION
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of)
LINDA P. ROBART)

For Appellant: Linda P. Robart,
in pro. per.

For Respondent: James T. Philbin
Supervising Counsel

O P I N I O N

This appeal is made pursuant to section 18593 of the Revenue and Taxation Code from the action of the Franchise Tax Board on the protest of Linda P. Robart against a proposed assessment of personal income tax and penalties in the total amount of \$2,331.27 for the year 1979.

Appeal of Linda P. Robart

The question presented is whether appellant has shown any error in respondent's proposed assessment.

After receiving a report of income paid to appellant by her employer in 1979, respondent advised appellant that it had no record of her having filed a personal income tax return for that year and demanded that she file the required return. After appellant did not respond, respondent issued a notice of proposed assessment based upon that information. The assessment included amounts added for failure to file a return (Rev. & Tax. Code, § 18681), for failure to furnish requested information (Rev. & Tax. Code, § 18683), for negligence (Rev. & Tax. Code, § 18684), and for failure to pay the estimated tax (Rev. & Tax. Code, § 18685.05).

Appellant protested the proposed assessment. After consideration, respondent affirmed its proposed assessment and this appeal followed. In her letter of appeal, appellant stated only that she did not agree with the finding of respondent, that the assessment was in error, and that she was not a taxpayer and owed no tax.

It is well settled that respondent's determinations of tax and penalties are presumptively correct, and the taxpayer bears the burden of proving them erroneous. (Appeal of Ronald W. Matheson, Cal. St. Bd. of Equal., Feb. 6, 1980.) Appellant's unsupported statement that she owes no tax is insufficient to shift the burden of proof to respondent. (Appeal of K. L. Durham, Cal. St. Bd. of Equal., March 4, 1980; Appeals of Fred R. Dauberger, et al., Cal. St. Bd. of Equal., March 31, 1982.)

For the applicable reasons expressed in our cited opinions, we reject the contentions of the appellant. Accordingly, we sustain respondent's actions.

Appeal of Linda P. Robart

O-R D E R

Pursuant to the views expressed in the opinion of the board on file in this proceeding, and good cause appearing therefor,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED, pursuant to section 18595 of the Revenue and Taxation Code, that the action of the Franchise Tax Board on the protest of Linda P. **Robart** against a proposed assessment of personal **income** tax and penalties in the total amount of **\$2,331.27** for the year 1979, be and the same is hereby sustained.

Done at Sacramento, California, this 28th day of July , 1983, by the State Board of Equalization, with Board **Members** Mr. Bennett, Mr. **Collis**, Mr. Dronenburg, Mr. Nevins and Mr. Harvey present.

William M. Bennett , Chairman
- ConwaH. Collis , Member
Ernest J. Dronenburg, Jr. , Member
Richard Nevins , Member
Walter Harvey* , Member

*For Kenneth Cory, per Government Code section 7.9